

**STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL**

June 9, 2003 - Regular Meeting
4224 6th Avenue S.E. Building 1
Lacey, Washington - 1:30 p.m.

ITEM 1: CALL TO ORDER

CHAIR LUCE: The regular meeting of the Washington State Energy Facility Site Evaluation Council for Monday, June 9, 2003, will come to order, Councilman Sweeney and Councilman Fryhling. We will begin with the agenda and the call to order with the roll call.

ITEM 2: ROLL CALL

EFSEC Council Members

Community, Trade & Economic Development
Department of Ecology
Department of Fish & Wildlife
Department of Natural Resources
Utilities and Transportation Commission
Chair
Kittitas County

Richard Fryhling
Charles Carelli
Sue Patnude
Tony Ifie
Tim Sweeney
Jim Luce
Patti Johnson (via phone)

MR. MILLS: I note the presence of Chair Jim Luce and there is a quorum.

CHAIR LUCE: I would like to take this opportunity to welcome Sue Patnude from WDFW to our ranks. I believe that we will have a lot of interesting business to conduct here over the next several months and welcome aboard.

MS. PATNUDE: Thank you.

OTHERS IN ATTENDANCE

EFSEC Staff and Counsel

Allen Fiksdal
Mike Mills
Michelle Elling
Ann Essko – AAG

Irina Makarow
Mariah Laamb
Pete Dewell – ALJ (via phone)

EFSEC Guests

Karen McGaffey-Perkins Coie
Kaye Emmons - Tractebel
Duncan McCaig-Tractebel
Mike Lufkin-CFE

Curt Leigh-WDFW
Scott Noll-Competitive Power Ventures
Darryl Peebles-Kittitas Valley Wind Project
Tony Usibelli-CTED Energy Policy

K.C. Golden, Climate Solutions
Bill LaBorde-NW Energy Coalition
Jim Hurson-Kittitas County (via phone)

Cindy Custer-BPA
Kirk Deal, Carpenter's Union
Chris Taylor-Zilkha (via phone)

ITEM NO. 3: APPROVAL OF MINUTES

CHAIR LUCE: The first item on the agenda.

MR. FIKSDAL: Mr. Chair, before we go on there's a couple other people on the line I believe. Pete Dewell, you're on the line?

MR. DEWELL: Yes. When you speak, can you get close to one of those mikes?

MR. FIKSDAL: Yes. When we come to the agenda items, we will. And, Chris Taylor, are you on the line?

MR. TAYLOR: Yes, I am.

MR. FIKSDAL: Is there anybody else on the line?

MR. HURSON: Jim Hurson, Kittitas County.

MR. FIKSDAL: Okay. Hi Jim.

CHAIR LUCE: I will endeavor to speak up in the interim, but the microphone is some feet away.

MR. DEWELL: Okay.

CHAIR LUCE: The first issue is approval of the minutes, the May 12, 2003 regular meeting and the May 27, 2003 special retreat meeting. Let's address first the issue of the May 12, 2003 regular meeting and ask the Council Members whether there are any corrections, additions to the May 12, 2003 regular meeting minutes?

MR. FRYHLING: On Page 6.

CHAIR LUCE: Page 6.

MR. FRYHLING: Down about the third of the way where it says Mr. Peebles, the second line there, and I think it's good for people to took. I think that should probably be look. That's the only thing that I have at this time.

CHAIR LUCE: Correction noted. Changed took to look. Any other corrections or additions? Hearing none, the meeting minutes for May 12 are approved. Next, with respect to the special retreat meeting notes of May 27, 2003, they have been circulated, and I believe there is also a proposed correction from Council Member Ifie.

MR. IFIE: Correct.

CHAIR LUCE: So we'll consider those notes together at this point in time. Council Member Ifie, do you wish to address your change?

MR. IFIE: Yes. In looking at the agenda, I would like to propose that we replace the second, third, and fourth paragraphs of the May 27, 2003, meeting with following: The group discussed EFSEC goals and the roles and responsibilities of the Council and staff as contained in current statute and rules. And then, the participants discussed how the Council and staff could better help each other to be more effective. The next general topic discussed was how to facilitate better communication between staff and Council Members.

CHAIR LUCE: Do you wish to elaborate on that or does it speak for itself?

MR. IFIE: I believe it speaks for itself.

CHAIR LUCE: All right. Council Members, you've heard that. Any comments? Is there approval to change the minutes of May 27, 2003, to incorporate the change recommended by Councilman Ifie? Councilman Sweeney?

MR. SWEENEY: Yes. Councilman Fryhling?

MR. FRYHLING: I move that we go ahead and adopt what Tony has submitted to us.

CHAIR LUCE: Councilman Carelli?

MR. CARELLI: I wasn't at the beginning of the meeting, so I'm going to abstain.

CHAIR LUCE: Well, Councilman Ifie would approve obviously, and I will also approve, so, Sue, I assume you will abstain since you were not at the meeting. With that sense of the Council, we will adopt the modified minutes of May 27, 2003.

I like to take this opportunity to publicly thank Councilman Ifie. He is the one who took the responsibility for organizing this retreat. He pulled together the agenda. He spent a lot of time talking with individual Council Members and staff, and the retreat was in large part a reflection of the amount of effort that Tony put into this, so thank you very much, Councilman Ifie. Your efforts on this behalf and particularly in working with the compliance and monitoring issues are very, very much appreciated, and I think we went out of the retreat a stronger Council because of your efforts.

MR. IFIE: Thank you.

ITEM 4: ADOPTION OF THE PROPOSED AGENDA

CHAIR LUCE: The next item on the agenda is the adoption of the proposed agenda. Do any Council Members wish to make any changes? Do they have any additions? Are there any deletions to the agenda? Hearing none, the agenda is adopted as suggested.

ITEM NO. 5: KITTITAS VALLEY WIND POWER PROJECT

<i>Application Waivers</i>	<i>Irina Makarow, EFSEC</i>
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CHAIR LUCE: The first item on the agenda is the Kittitas Valley Wind Power project. Irina, your report, and I believe the Applicant's representative Darrel Peebles is here as well. Now, I'd ask our Administrative Law Judge, Pete, can you hear?

MR. DEWELL: Yes.

CHAIR LUCE: Irina, you might want to test your voice.

MS. MAKAROW: Pete and Patti, can you hear me?

MS. JOHNSON: I can hear you.

MS. MAKAROW: Okay. We're getting better at setting this up.

MR. DEWELL: Okay.

MS. MAKAROW: The first item is an action item, and it is with regards to waivers of submittal of information that the Applicant has requested in their application, and I would direct you to the first item in your packets which is an ivory colored set of sheets of papers, and the first one is a summary of the sections of which a waiver is being requested and with a staff recommendation for each. One of the reasons we did not bring this to the Council last month was that we were still awaiting the recommendation from our contractor, the Department of Ecology, and the letter that we received from the Department of Ecology also is the second document in that set of

sheets of paper. So the Applicant requested a waiver of the information to be submitted with regards to the description of a system of heat dissipation which is clearly a description of a system that is really only applicable to a thermal energy facility. They also requested a waiver of the description of the characteristics of aquatic discharge systems which applies to discharges of waste water to waters of the state, and, again, there will be no such discharges in the case of the Kittitas Valley Wind Power Project. And the same goes to waste water treatment. The Applicant has submitted information with regards to a septic system that would be installed to treat domestic waste water, and the requirements of this WAC are again not pertinent. The same goes for emission control.

Our contractor at Ecology has confirmed that there are no permitting requirements for emissions resulting from the construction and operation of the facility. The emissions are basically construction activity emissions and then emissions from vehicles that would be used in the maintenance of the facility, and those do not require any federal or state permits. With regard to WAC 463-42-352, our WAC requires that the Applicant submit information regarding radiation levels. This is clearly not applicable in this case, and, finally, the key PSD operation application again there is no PSD permit that is required for a wind facility. So staff's recommendation is that the Council grant all of the waivers that have been requested as indicated on the summary that is before you.

CHAIR LUCE: Thank you. Questions from Council Members? Council Member Carelli.

MR. CARELLI: Irina. Staff sent around a similar series of recommendations about a week ago that was marked draft. Is this the same as that draft?

MS. MAKAROW: Yes.

MR. CARELLI: Thank you.

CHAIR LUCE: Other questions from Council Members? Do we have any comments from the public or from the Applicant? Do we have a motion? I believe a motion would be appropriate.

MR. IFIE: So move.

CHAIR LUCE: Do we have a second?

MR. FRYHLING: Second.

CHAIR LUCE: Do we have any discussion on the motion? Hearing no discussion, do we have a call for the question?

MR. CARELLI: Question.

CHAIR LUCE: All in favor of granting the waivers as recommend by staff signify by saying aye.

COUNCIL MEMBERS: Aye.

CHAIR LUCE: The waivers are so approved. Thank you, Irina.

MS. MAKAROW: I would just like to reflect for the record that I did hear Patti Johnson say aye.

CHAIR LUCE: Thank you.

<i>Land Use Extension</i>	<i>Irina Makarow, EFSEC</i>
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MS. MAKAROW: The second action item before the Council today is a request from the Applicant to extend the 90-day period for resolution of land use consistency issues for this project, and Mr. Darrel Peeples, attorney for the client, will present that request. The Applicant has also submitted a letter with that request, and it is also included in your ivory package. Darrel.

MR. PEEPLES: Essentially we have started out, attempted to negotiate, and went through some negotiation procedures with the County, and we have filed an administrative draft, got comments back, and we've filed presently an application pursuant to the County's zoning ordinance. And it has not been accepted yet, so we are in the process of waiting for that review and acceptance.

We filed it once, got comments back. Filed it again, got comments back, and then there's another one pending. So at this point we're asking for an extension to September 30.

I believe we will have a better idea to report back to the Council when that application is accepted, and we get some idea of the time line that is going to take and the process. I'm still unclear of the exact process we'll be going through, and I am unclear about the time lines, so we're asking for this extension for right now. But if we come back later don't be surprised and ask for another one. I meant September 1. We would ask for an extension of September 1 and we'll come back. And we are working with the County, and we will come back and report again once we know kind of what the time line is, what the County process is.

CHAIR LUCE: Thank you. Questions from the Council Members? Comments from staff?

MR. FIKSDAL: We might want to summarize a little bit for our new Council Member from the Department of Fish and Wildlife. The Council is obligated to find if a project is consistent with local land use and zoning ordinances, and the Council held a hearing over in Kittitas County and found that the Kittitas Valley Wind Power Project was inconsistent with local land use laws, and Council rules have the provision that the Applicant work with the County to try to change that consistency, and Mr. Peeples and the Applicant have been doing that. There's a condition in those rules for a time limit for that and subsequent Mr. Peeples is requesting an extension.

MS. PATNUDE: Thank you.

CHAIR LUCE: Discussion among the Council Members with respect to granting the land use extension?

MR. HURSON: This is Jim Hurson. Can I make a comment?

CHAIR LUCE: I'm with Council Members. Who's our Council Member Representative?

MR. FIKSDAL: Patti Johnson.

CHAIR LUCE: Jim, I think you can certainly make a comment, but I would like to hear from Council Members first.

MR. HURSON: That's fine. I thought you kind of worked your way through the line, and you were asking for general public comments. I'm having a hard time hearing some of the comments.

CHAIR LUCE: I apologize. I will try to speak up. Are there any comments from the general public?

MR. HURSON: Would that be me?

CHAIR LUCE: That sounds like it's you, Jim.

MR. HURSON: I mean obviously the County doesn't object, but I do believe there's a high likelihood that there will need to be another extension for us to get this process. I know we got an application last week. I don't believe our planners had a chance to review, to see if any information whether we can get our process going. I just wanted the Council to be aware that realistically I don't think the September 1 date is going to get us there, but that's an extra 30 days from the 90. But we will do what we can, and we will probably have to come to the Council at a later date on a time frame.

CHAIR LUCE: We appreciate the hard work that Kittitas County is making and the diligent effort to achieve this by 90 days plus 30, and we'll keep our fingers crossed. And if we have to

come back again, we have to come back again. Any other comments from members of the public? Do we have a motion with respect to approving the land use extension?

MR. FRYHLING: So move.

CHAIR LUCE: Do we have a second?

MR. IFIE: Second.

CHAIR LUCE: Council Member discussion? There is no discussion. Do we have a call for the question?

MR. SWEENEY: Question.

CHAIR LUCE: We have had a call for the question. All in favor signify by saying aye.

COUNCIL MEMBERS: Aye.

CHAIR LUCE: I believe I heard an aye from Patti, so it's unanimous. The land use extension is granted until September 1, 2003. Thank you. The next item on the agenda also pertains to the Kittitas Valley Wind Power project. That is a progress report on the power project itself. And Mr. Peeples is here and appears ready to give us a progress report.

MR. PEEPLES: I drafted a -- let me pass it out to the Council Members, staff. Just it's very brief and I'll read it, so that people on the line can hear it.

MS. MAKAROW: While Mr. Peeples is passing this out, this is the progress report that the Applicant has to submit today with regards to the progress on the land use consistency resolution with the County, and after Mr. Peeples gives that progress report, I'll give you a second progress report from staff.

MR. PEEPLES: It's just two paragraphs. Let me read it. This letter is a report on the status of negotiations with Kittitas County on local land use consistency issues pursuant to Council Order 776. The Applicant submitted an administrative draft of its application to Kittitas County for their review on March 27, 2003. The Applicant received comments back from the County on April 15, 2003. The Applicant filed an application together with a check for \$450, the County's application fee on May 20, 2003. The application fee check was deposited by the County on May 23, 2003. The County responded on May 28, 2003 that the application was not yet complete. The revised application was filed again on June 2, 2003.

To this date, the application has not been accepted by Kittitas County. The Applicant has submitted a request for an extension of the 90-day period for a preemption request. The Applicant requests that EFSEC mutually agree to extend the date that the request must be made for preemption pursuant to WAC 463-28-040 to September 1, 2003. And, again, you have already ruled on that request, and I am just going back to what Jim Hurson said over the phone. I would expect that we'll have an active application to the County in the not too distant future. So for the next report back we'll have some details as to time lines and where we're going from there. And, again, don't be surprised if we come back and ask for another extension on this.

CHAIR LUCE: Thank you.

MR. PEEPLES: Those are just the bare facts, and I thought that's all you need at this time. I think there will be more details on the progress report.

CHAIR LUCE: Thank you. Irina.

<i>Progress Report</i>	<i>Irina Makarow, EFSEC</i>
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MS. MAKAROW: The main activities that were pursued within the last month were, of course, the issuance of the notice regarding the adjudicative proceeding and petitions for intervention on May 16, and the petitions will be due to the Council on June 16 with the first prehearing conference scheduled for June 26 in Ellensburg.

The second item that I'm going to report on is with regards to changes in schedule for the preparation of the Environmental Impact Statement. Because our consultant is going to need some additional time to assess the cumulative impacts from the project, they requested that we give them an extension of the deadline for submitting the administrative Draft EIS to the Council for the Council's review. And therefore that means that there would also be a delay in the issuance of the Draft EIS.

We discussed the issues with our consultant, and we agreed, staff agreed with our consultant that the administrative Draft EIS would be submitted to the Council on July 21 rather than this week as has been originally anticipated, and of course, that would mean that as shown on your schedule in your packets that the Draft EIS would be issued at the very beginning of September. What this means for the overall schedule, at this point we don't think that would create a delay in the overall schedule for the Council's decision.

Staff and our independent consultant will work very hard at the tail end of the process to accelerate the production of the final EIS and the Council's order, so that the time lost at this point in time would be caught up at the end. And as you can see we've attempted to retain the anticipated date of the Council's recommendations to the Governor at the beginning of February of next year.

CHAIR LUCE: Thank you. Questions from Council Members? I just have one question. The Draft EIS would be out more or less on or about June 21st?

MS. MAKAROW: No, that would be on July 21st.

CHAIR LUCE: Oh, July. Okay.

MS. MAKAROW: The Council will receive an administrative version of the Draft EIS for their review, and the Draft EIS will actually be issued on September 1.

CHAIR LUCE: It takes that long -- how long do we have for Council to review that?

MS. MAKAROW: Council will actually have only one week to review it. And right now we have one week for the Council to review it and three weeks for Shapiro to incorporate the 0 comments to produce the camera ready to be printed. Our independent consultant will also be receiving comments from our contractors, Ecology and Fish and Wildlife, so there is a little bit of time that we need for those contractors to also be able to get them their comments.

CHAIR LUCE: All right. Thank you very much. Any comments from the public? Hearing none, I appreciate your presentations.

MS. MAKAROW: And for Patti, Julian, Jim, and Chris, that ends the Kittitas Valley Project issues.

MS. JOHNSON: Thank you.

CHAIR LUCE: So if you would like to stick around. And, Pete, you will stick around for the Cherry point discussion we're about to have?

ITEM NO. 6: CHERRY POINT PROJECT

<i>Extension of Review Period</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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CHAIR LUCE: And the next item on the agenda is the Cherry Point project discussion, and the first issue is an action item, extension of review period. Allen, you're making a presentation with respect to this issue.

MR. FIKSDAL: Thank you, Mr. Chairman. In your packet there is a letter that's on a white piece of paper that has Draft Draft Draft Revised 6/4/03 on top. It's to Mark S. Moore, Project

Manager of BP Cherry Point Cogeneration Project. I drafted this letter in response to the Council's request for me to do this. As you remember, there was a revision made to the BP application. In that revision there is a letter to the Council from BP that acknowledged that the time for the Council to process the BP application would need to be extended because of the revisions to the application. In the BP letter of I believe it was April 15, BP suggested that a date of completion for the Council's review would be sometime in mid December. Staff has developed a schedule that appears that the Council could complete their work sometime probably in January of 2004. This letter, draft letter is for your approval and for being issued by the Chair would essentially extend that period of time or recognize or mutually agree that the time should be extended according to the law, RCW 80.50. So it's staff's recommendation that you approve the Chair's issuing this letter.

CHAIR LUCE: Council Member discussion?

MR. IFIE: I have a comment. On the one, two, three, fourth paragraph, the last sentence. I would like to propose that would be modified to BP encourages EFSEC to reach a decision by the middle of December 2003. And then I would also propose a sentence in the middle of the next paragraph after the January 2004 date to say that EFSEC agrees to continue to work to implement any schedule efficiencies that are possible to just reflect the discussions that we had at the executive council meeting.

MR. FIKSDAL: Could you repeat that sentence.

MR. IFIE: EFSEC agrees to continue to work to implement any schedule efficiencies that are possible.

CHAIR LUCE: Any comments from Council Members? With those changes, I would recommend that the Council authorize me to sign this letter in the sense of a motion. A Second?

MR. FRYHLING: Second.

MR. SWEENEY: Second.

CHAIR LUCE: All in favor?

COUNCIL MEMBERS: Aye.

CHAIR LUCE: Approved.

MR. FIKSDAL: Thank you.

CHAIR LUCE: In the event that I'm not readily available, I would request that the Council authorize Mr. Fiksdal to sign that in my absence.

MR. FRYHLING: Okay.

MR. CARELLI: That's acceptable.

CHAIR LUCE: Progress report. Michelle Elling will give us a progress report.

<i>Progress Report</i>	<i>Michelle Elling, EFSEC</i>
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MS. ELLING: Yes, thank you. Our independent consultant, Shapiro, has been working very diligently with BP on the development of the Administrative Draft EIS, and we're still projecting receiving that document for Council review the week of June 23. As with the Kittitas project, you will have one week to review that and get comments back to me, and then we are expecting to issue the Draft EIS for this project approximately the week of August 11th for the adjudicative process. Staff issued a notice today, which is before you, the gray notice, of the second prehearing conference to be held on July 15. It's going to be held here in Olympia at the DNR building at 9:30 in the morning, and we've also issued a notice for the submittal of issues list to be submitted by Counsel for the Environment and Province of British Columbia by July 7.

CHAIR LUCE: Thank you. Any comments?

MR. CARELLI: Michelle, the date that the Council will see the administrative Draft EIS again?

MS. ELLING: It will be sometime the week of June 23rd. I haven't got a specific date yet though, and the agreement is that the one-week review period starts when the Council Members receive their copy.

CHAIR LUCE: Any other questions, comments by staff? Questions or comments from the public? Thank you very much. Got one. Great.

MR. LUFKIN: One comment very briefly.

CHAIR LUCE: Sure. Come forward to be heard.

MR. LUFKIN: Good afternoon, Council Members. My name is Mike Lufkin, the Counsel for the Environment. I just had a quick more of a clarification question on what was just outlined there. As Michelle mentioned a submittal of the issues list will be due July 7, 2003 from Counsel for the Environment and other parties to the adjudication. She also stated that the Draft Environmental Impact Statement will not be issued until approximately August 11 of 2003, and this is more of just a matter of pointing this out for the record, and you probably heard me say this before. But one of the concerns is that document, the DEIS, is I believe what many parties will use, not only in identifying issues but also in helping them limit issues. For myself what that will probably mean is I will BE forced to submit a more expansive issue list than I would probably like to because at that point I will not have had the opportunity to review the DEIS and to see about areas that I'm concerned how they've been covered and what the independent consultant has to say about those issues in that environmental document. So I just wanted to make you aware of that not really a problem -- that's too strong a word I think -- but what affect I think those dates may have. You may see issue lists that are again maybe a little bit more expansive than you like because of the timing of the environmental document and when it's ready so.

CHAIR LUCE: Thank you. Are we completed with the Cherry Point?

ITEM 7: SATSOP COMBUSTION TURBINE PROJECT

<i>Greenhouse Gas Mitigation Plan</i>	<i>Karen McGaffey, Perkins Coie</i>
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CHAIR LUCE: All right. Satsop Combustion Turbine Project. The Greenhouse Gas Mitigation Proposal.

MR. FIKSDAL: I think Karen McGaffey is here. Pete, are you going to stay on the line? Anybody else on the line?

MR. DEWELL: I guess we're all done?

MR. FIKSDAL: Yes.

MR. DEWELL: Okay. I will sign off.

MR. FIKSDAL: Okay. Bye.

CHAIR LUCE: Ms. McGaffey.

MS. MCGAFFEY: Thank you. I think as everyone knows by Council Resolution the certificate holders for the Satsop project were required to develop a mitigation plan for greenhouse gas emissions associated with an amendment to the site certification agreement that increased the capacity of that facility from 490 megawatts to about 630 megawatts. I think what the Council all has in front of them today is a copy of the Satsop Combustion Turbine Project Greenhouse Gas Mitigation Plan that's dated June 2, 2003. That's a mitigation plan that as many of you know has been developed over many months.

A series of discussions at executive committee meetings resulted in several revisions to that plan based on comments received from Council Members, as well as from members of the public and various stakeholder groups that participated in that series of meetings. The mitigation plan is generally based on the greenhouse gas mitigation scheme established by statute in Oregon and by the plan that the Council approved for the Sumas generating facility a year or so ago. Since we have discussed this plan at length in a series of executive committee meetings, I guess that's all I was going to have to say, but I'm happy to answer questions about the plan. The Satsop certificate holders would certainly like the Council to approve the plan at today's meeting. If you have questions, I'm happy to answer them.

MR. FIKSDAL: I might note that on your pink sheet the June 2 is scratched out with June 4. It's the same plan that you saw earlier except Karen sent this to me without the highlights that you saw at your executive committee, and since it came to us on June 4, we scratched off June 2. It's really the same plan that you saw last week.

CHAIR LUCE: Council Member comments, questions? Yes, Mr. Ifie.

MR. IFIE: I would like to thank Duke for the effort it has taken so far in submitting an approvable proposal. They have taken the time to work with Council Members attending the executive council meeting to try to work out the kinks in the proposal. I believe that this proposal is approvable. So that's all my comments.

CHAIR LUCE: I would likewise like to take the opportunity I think Duke has listened very carefully to what this Council had to say. They began with two proposals, if you recall, a Chehalis proposal which they believed listening to the Council originally was what the Council wanted, and the Council over a series of meetings determined that that was not what the Council wanted, and Duke went back and reevaluated. I guess a couple of things.

The proposal before us is not based on the delta, the difference between the 490 and the 630. They're going to mitigate for the entire 630, and I think that the case could be made that that's not necessary or was not necessary. I'm not saying that that's a case that would persuade the Council, but it's a case that could be made.

With respect to Oregon, I think one thing that I like is that there's a producer price index escalator over time, so while we're starting at .675, I think they'd recognize that it's going up from there. And they've agreed as opposed to Sumas to put five percent into the administrative costs. That may not be exactly what the Council ends up on assuming we go forward in rule making, but this is not the rule making exercise. That comes later. So overall I could find some criticisms of this proposal if you ask me, but I think overall it's a fair and balanced approach. So I don't have any questions of the Applicant. I think that considering everything it's a fair proposal.

MR. CARELLI: I would second much of what has been said by Mr. Ifie and Mr. Luce. I think that this is a good balancing. It does go beyond what could have been expected looking at just the difference between the earlier proposal and what is now proposed. It offers the payment on an annual basis over a 30-year period, and to me this is where we begin to lose a little bit of balancing from the standpoint that the 30-year life of the project may well go beyond 30 years, and the Applicant has put it in lieu of being able to pay on an annual basis as opposed to making one up-front payment. So normally those two could be viewed as a tradeoff going with an annual payment over the life of the project as opposed to a single up-front payment for 30 years. And I do like the idea of having the administrative expenses included, but I would like the Council to consider increasing that administrative expense to actual administrative costs not to exceed ten percent. I think that is very fair. We have had some suggestions that the number is

more than five. We have had others that it's less than ten. It's somewhere in that range and I would like to limit it not to exceed ten but to go with actual expenses not to exceed ten percent if there was any support for that.

CHAIR LUCE: Any other comments from Council Members?

MR. SWEENEY: This whole issue predates my time here, so I feel awkward commenting on how this all works, but I am very bothered by how the payments come out on an annual basis. I don't see how the amount that comes out on an annual basis will really help purchase offsets at the amount they come out at. It seems like a pretty small amount on an annual basis. It's a lot of effort for the amount of dollars that it's driving. I would rather see it on a lump sum basis, and this argument about 30 years really that doesn't fly with me. It could be 30 or 20.

The important thing is that we're requiring a certain amount of mitigation and then having to pay an amount. And whether it's two million dollars or five million dollars or a hundred thousand dollars it has more value if the money comes in lump sum or at least close together and stretching it out for 30 years really weakens what otherwise looks like a really good plan. And so given that, it does seem reasonable since we're stretching this out over 30 years to try to provide some more accommodation for administrative costs. It would be potentially more expensive to have to do this on an annual basis as opposed to doing it in a lump sum.

So to me it seems like Chuck makes sense that maybe we should require a little more padding for the administration costs because it does seem light, and it's not like we're requiring ten percent. We're just saying if those costs are higher than five percent up to a maximum of ten then the Applicant would cover those costs. That would make me a little more better about this. I still have a problem with paying on an annual basis, and that's going to be an issue when we get into rule making. And it's not going to keep me from supporting it, and I should have prefaced that. I will support this because I feel like, you know, any level of mitigation is fine. And it's just that had I designed this even if the dollar amount were the same, it would be more closer to a lump sum payment.

CHAIR LUCE: Okay.

MR. FRYHLING: I would go along with the proposal. I would like to have Chuck's suggestion incorporated.

CHAIR LUCE: I've got a couple of comments about it. First of all, I'm going to stick with the five percent for a couple of reasons. This Council has been all over the map with respect to CO2. I mean this is not rule making, and we have varied from no administrative costs to five percent to somewhere between five and ten percent, and we're going to deal with that issue in rule making.

Second of all, anytime you say up to ten percent in administrative costs, my experience with dealing with administrative agencies is it's guaranteed it's going to be ten percent. That's the way it works whatever the number is. You set up for 20 percent; it would be 20 percent. I'm not trying to be critical, but quite frankly it will come in at the high end, and I'm not to disparage agencies and GO's from doing the right thing. But, you know, if they see ten percent, they will find a way to get to ten percent.

As far as 30 years is concerned, I mean that troubles me too. Okay? I will buy that. The way I'm looking at the 30 years is that's a tradeoff for what I think was a legitimate argument that the Applicant could have made that their real obligation was for 140. Where we started to get really serious about CO2, again, this has all been incremental over time. We've kind of made up CO2 as we went along.

First, we didn't have it on our radar screen, and then it was a blip, then it was a bigger blip, and now we're in the middle of rule making. And this doesn't have anything to do with rule making. But 490 didn't have anything there. Then we came in with 140, and at that point in time we decided this was a pretty good idea. The Applicant's come back and said we are going to do mitigation for the full 630. To me that's worth quite a bit, and irrespective of what we do here the bottom line is today this is the second best -- I don't ever like to be second best on anything -- but this is the second best CO2 mitigation plan for power plants in the United States of America. Now it's never going to be enough. In a perfect world, it would be a hundred percent of full mitigation at market costs. We wouldn't be building any power plants from my perspective at least from what I can see in terms of what the projected costs are. But it's the second best in the United States. It's more than almost anybody else does.

So I guess I'm with Tony on this one. I think you take the five percent which is five percent more than we got at Sumas. And we're not getting all the money up front. That's true. We have talked to Climate Trust. They can handle this on a yearly basis. They may not be able to buy as much at once. That's true. But we'll deal with those issues in a different forum which is rapidly approaching, so I guess that's all I have to say.

MR. IFIE: I have a comment about the administrative costs.

CHAIR LUCE: Yes.

MR. IFIE: I think at the last executive council meeting there was some information that came out about the practice in Oregon at that time. This plan is based in part on Oregon rules and their plan uses five percent for that administrative cost. I hear what Tim is saying about this is more expensive. It's really wise. But like Jim Luce said there's a tradeoff here. The company didn't have to go with trying to mitigate for the entire emissions. They were only required to mitigate for the difference between the 490 and 630 megawatts for emissions for those two megawatts. So the fact that they're going with offsetting or trying to mitigate for as much of or for the entire.

MR. SWEENEY: I'm sorry, Tony. Go ahead.

MR. IFIE: The fact that they're mitigating not for the entire thing but at least applying the rule for the entire emission to me offsets the fact that we are asking for that administrative cost will be higher.

CHAIR LUCE: Thank you. You are right. The Oregon costs are five percent. Any other comments from Council Members? Any comments from members of the public? Well, all sorts of hands are up. Let's start with the first hand that went up which was Mike Lufkin's.

MR. SWEENEY: You will have to excuse me. It was just getting interesting too.

MR. LUFKIN: We can wait. Thank you, Council Members. I just wanted to make a couple comments on the proposal, and at risk of sounding like a broken record, I'm sure you're probably pretty well aware of what I'm probably going to say because it's nothing that I haven't said in some of the previous executive meetings about this. But I think I would be remiss if I didn't just address at least one -- well, I will address both of the issues, but the primary emphasis is on the 30-year issue.

There was some discussion a few moments ago about that you essentially made up CO2 mitigation obligations as you've gone along. I guess I would fundamentally disagree with that. I think essentially what this Council has done in most instances is either accepted or utilized Oregon as a model. Yes, you've varied from that. You've accepted variations of that in Sumas. In Wallula there was a settlement, but essentially how they reached the dollar figure was through an Oregon type analysis. But essentially you have used an Oregon type model. What's being proposed today differs significantly from Oregon, and that significance is that in Oregon it's a

quid pro quo. It's you pay up front at a set dollar or a set rate and in exchange we limit the mitigation obligation to 30 years. Here you are not getting that up-front payment.

The Applicant, Duke, has proposed making payments on an annual basis, so essentially it takes the most beneficial aspects of the Oregon approach but doesn't give back in terms of real mitigation kind of the advantages that are built in the Oregon process. So I would say it isn't just a slight modification from Oregon or from Sumas. Yes, in Sumas there was no administrative costs included, but that five-year obligation in which the payment would be made is significant. And I just ask the Council to reconsider that in extending the obligation to the life of the project rather than limiting it to 30 years.

And I guess, you know, another point on that issue is that if the life of these projects is truly estimated at 30 years, then extending the mitigation obligation beyond that should not be any real additional obligation to the Applicant. You know, it comes out to \$191,000 a year in real today dollars. I'm not saying that that's an insignificant number, but in the grand scheme of a 400-million dollar project it is hardly going to make or break the project. Those impacts of CO2 emissions will continue beyond 30 years. They will be there as long as the plant continues to emit CO2. It is only proper that the mitigation obligation extend that long as well.

Secondly, on the issue of the administrative costs, I agree with Council Member Carelli and Sweeney that it is appropriate to put a clause in there that says the administrative costs should be essentially what it costs. That would make it no different from other types of mitigation. For example, in wetland mitigation, the mitigation obligation goes to actually what it -- the requirement goes to offsetting the environmental impact. What it costs to administer whether if you're required to, for example, mitigate a three-to-one ratio you don't lessen that based upon what it would actually cost to implement that three-to-one mitigation obligation. It's no different here.

Essentially all you're saying is we're going to require X amount of CO2 mitigation, and, you know, whatever it costs you to administer that if you can do it for two percent, that's wonderful. If it costs you eight, that's the cost of doing business and buying that mitigation offset that you are in fact required to offset, so I would ask you to take another look at that and in adopting this consider accepting Council Members Sweeney's and Carelli's approach of requiring the actual costs, the administrative costs as they are found to be. Thank you. If you have any questions, I would be happy to answer.

CHAIR LUCE: No questions. At least I don't. Any other Council Members have questions? Thank you. Next Mr. Usibelli from Office of Energy Policy.

MR. USIBELLI: Good afternoon, Members of the Council. My name is Tony Usibelli. I'm with the Energy Policy Division for the Office of Community, Trade, and Economic Development. I just wanted to comment on one issue before the Council, and that is with respect to the up-front payments. And I do apologize that I did not get this done earlier to pass around to the members of the Council.

We conducted a brief analysis using some examples of an up-front payment. What we are recognizing is that this does represent a real and a significant reduction in CO2. However, we believe much as Councilman Carelli and Councilman Sweeney have mentioned earlier that the 30-year payment represents a significant discount in the actual amount of savings that you would get, the actual amount of CO2 that would be reduced. We've had discussions with the Climate Trust, and they have enumerated some of their concerns about these type of stream of payments and some of the limitations associated with that. We think an up-front payment would allow for some larger economies of scale. A larger amount of money in one or in simply a few payments

gives you the ability to get potentially larger projects, likely a bigger range of projects. It could also help to reduce the administrative costs on not having to deal with payments on an annual basis, and we also believe getting the mitigation up front rather than waiting for it to come in over 30 years have real benefits. We are also cognizant of the fact that there are issues around the economic viability of these types of plants, and although a single up-front payment similar to Oregon I think could work, I think the Council could provide some flexibility that could allow a five-year payment stream for the mitigation options, and we've have laid out some information and some illustrative examples of the amount of mitigation and the costs associated with that. So with that, I will close and if you have any questions?

CHAIR LUCE: Thank you. I don't have any questions.

MR. IFIE: Quick question for you. In your comparison of the up-front payment, the up-front payment compared to the 30-year payment plan, I didn't get a chance to read the entire document, so I just need some clarification. Did you consider the fact the amount of the yearly payment will account for or will have incorporated into it an increase, an annual increase?

MR. USIBELLI: It does, and in the assumption we used a couple of examples here is that there would be say roughly a 2-1/2 percent annual increase in the payment's adjustment for inflation, but we also believe that right now because the carbon market is pretty immature, we're likely to see prices for carbon mitigation increase in the future because of that, and also because of the fact that some of the early least expensive projects would be captured over the years we're assuming that either a five- or ten-percent likely escalation rate for the cost of mitigation into the future. So that tends to make it -- you tend to achieve less savings, and those two are just by ways of some illustration. But we also use two dollars a ton as our base which we think is probably a pretty conservative base to start with as well, so I hope that answers your question. So we did adjust for inflation, but we also assumed an escalator for the costs of the mitigation as well.

CHAIR LUCE: You would agree, wouldn't you, that irrespective of which way the Council goes this is still the second best state in terms of providing mitigation for carbon sequestration in the United States?

MR. USIBELLI: You're saying Washington is the second best state?

CHAIR LUCE: Yes.

MR. USIBELLI: I would say so. I think the only provision that I would probably change on that is that some states do have some albeit much lower carbon mitigation for some existing facilities, so that would be the only distinction. Thank you.

CHAIR LUCE: Thank you. Other comments from members of the public? Yes, sir.

MR. LaBORDE: Bill LaBorde from Northwest Energy Coalition. I just want to say we have comments in on June 4 from Trina Blake for the Energy Coalition which I think the Council Members have copies of, and so I won't go into a lot of detail other than to say we agree with what Mr. Lufkin and Mr. Usibelli have said about the up-front payment -- or the 30-year payment versus up front. From everything we've seen with Oregon Climate Trust we think that a lot more can be done to reduce carbon output with an up-front payment. And we are also concerned about the five percent administrative cost allowance; although, we do certainly appreciate that at least there is an allowance for administrative costs in this plan. I think just overall our biggest concern is that it really is at best a second best effort compared to Oregon, and we think that on this we should at least be matching Oregon, and that would hopefully be a stepping stone for the rule making process for doing something better than Oregon to truly to do something about Washington's contribution to the problem of global warming.

CHAIR LUCE: Thank you. Any questions from Council Members? Mr. Golden, do you have some comments for the Council?

MR. GOLDEN: Brief ones and one piece of paper. If you would start on the side that says Proposed Satsop Mitigation in Perspective. Thank you, Mr. Chairman and Council Members. I will not speak to the details of the proposal before you. They have been spoken to well, and we support the comments of the Energy Coalition and the comments that Mr. Usibelli just made. I want to speak just briefly with the handout that I've just given you to the basic issue of scale and how much of this risk are we really recognizing and allocating and reducing in this one-time very long-lived state policy decision to site a power plant. And my simple plea to you is that this scale of this mitigation is simply not in keeping with the scale of the response that we need to mount on this problem. The scale problem is in part a function of the up-front payment or the lack of an up-front payment which does reduce the environmental effect that's achieved. It's in large part a function of the price per ton which, of course, delivers significantly less than the Oregon standard advertises it would deliver. But fundamentally it's just a product of shooting too low in the face of the problem right now.

The chart you have before you, the one that says In Perspective shows that siting this plant even with this very modest mitigation allows for a very significant increase in Washington CO₂ emissions. On the flip side, Proposed Mitigation in Larger Perspective, it shows that increase in the next to the last bar, the net increase in emissions. The mitigation is barely visible on this chart, and then it shows just for perspective the reduction in state-wide CO₂ emissions that would be necessary to meet Kyoto. I would frame this in that context because, Mr. Chairman, you asked if this is still the second best action by a state, and the answer is siting this power plant is all on the upside of zero. This is a net increase to the state's greenhouse gas emissions at a time when many states are undertaking policies to deliver net decreases. And, of course, meeting Kyoto or McCain-Leiberman or any of the policy objectives to reduce greenhouse gas and actually address the problem involve reductions below zero, below today's baseline, below 1990 baseline.

This mitigation package is just about how much of this increase will we lob off the top. It's still a very substantial net increase at a time when other states and the rest of the advanced economies of the world are mobilizing for significant reductions. So I just think it's important to keep it in that context. That's obviously a somewhat bigger context than the siting of this plant. But to me it suggests that when we're going to make a very long-lived decision about a major increase in the State's emissions, we need to begin now to allocate and reduce a significant portion of that risk, and this mitigation package doesn't get to that standard.

And, finally, just to say that in the context regarding of what you think about the environmental merits of the mitigation package or the plan in general, I think it's now very difficult to argue that we will not see binding constraints on carbon emissions in the economy in the very foreseeable future. We now have all the rest of the world's advanced economies having committed to that. The McCain-Leiberman bill, which I'm not sure if you all are familiar with, but it's the first piece of national legislation that would have a binding reduction on the U.S. economy. It may be voted on in the Senate as early as this week, perhaps next week in the context of an energy bill. Probably won't pass this year but will probably get a very substantial amount of the votes, and assuming that you believe the science, there's sort of an exorable process of starting to reap the effects that is going to lead -- there is a scientific limit on how much carbon we can safely put in the environment, and that will be reflected in policy action certainly within the life of this very long-lived investment.

And so, again, my plea to you on this is that you're at the front end. You're making the beginning decision on a fossil fuel burning facility that will last for a very, very long time, and this risk and this cost will be part of the backdrop of any fossil fuel facility for the foreseeable future, and I hope you can be more to address and allocate and reduce this risk.

CHAIR LUCE: Thank you.

MR. GOLDEN: Thank you.

CHAIR LUCE: Questions from the Council? Ms. McGaffey, do you have any further comments?

MS. MCGAFFEY: Yes, I guess I would like to make a few additional comments in light of the comments you've heard. Unfortunately I haven't been provided with any of the written materials that have apparently been submitted either at this meeting or prior to it, so I can't really respond to those. But I do want to respond to some of the general themes that have been discussed. And, quite frankly, many of the points that you've heard today I think are somewhat valid in the context of the rule making policy discussion that the Council has also been or has been taking place with respect to EFSEC standards and will continue when the Council begins to address a greenhouse gas rule.

But I think for the Satsop mitigation plan the history of the Satsop permitting is extremely important, and that's what makes it different from general policy discussions about greenhouse gas mitigation. The Satsop project was permitted back in 1996 for 490 megawatts of capacity were permitted with no greenhouse gas requirement at all. That's what distinguishes it from other projects. Here we're only talking about an additional 140 megawatts to which the Council suggested that mitigation would be appropriate. Now the only project that the Council has addressed that is similar to that is the Chehalis project, and through the course of several months of discussing mitigation programs the Council in executive committee sessions made very clear to Duke that they wanted to see the Satsop project propose more than the Chehalis proposal because they were dissatisfied with what the Chehalis proposal turned out to be. And I think there's no question that Duke has done that. So you already have a situation in which Duke is volunteering to do much more than the only other similar project that the Council has considered and approved mitigation for. What Duke is proposing to do is something close, very much akin to what the Council approved in the Sumas case. And remember at Sumas you were permitting 660 megawatts capacity, much more than the capacity that is at issue here.

Now, two issues have been discussed today, the 30-year issue and the administrative costs issue. Let me just touch on those briefly. Comments have been made that it's inappropriate to stretch the pay out over 30 years, and that that somehow makes the proposal significantly less than the Sumas proposal. Two things I want to point out to you.

First of all, unlike the Sumas proposal this proposal includes an escalator clause that increases the price per ton that's paid each year to take into account for the fact that it's being paid out over 30 years.

Secondly, remember Sumas was trying to mitigate a whole 660 megawatts. Here Satsop is only required to mitigate 140 but yet they've adopted essentially the same formula that the Sumas proposal has used. In my mind that doesn't make this proposal second best to Oregon. The Sumas proposal might be second best to Oregon. I think for Satsop we are now better than Oregon. This is now the best mitigation in the country because you have the amendment allowed only 140 megawatts of increased capacity; yet, the mitigation is being calculated based on the 630. It seems to me all of those tradeoffs are important to consider when you consider

approving the project. It's not simply a matter of the 30-year assumption being traded off for a lump sum payment.

There is also the reason that 30-year assumption is appropriate is because you're assuming maximum potential emissions even though we know it won't be operating at a hundred percent capacity all the time. You're taking into account that there's an escalator clause, and the formula is being driven by the full capacity of a facility even though the vast majority of it was permitted without a mitigation requirement.

Let me comment briefly on administrative costs. The plan proposes five percent. That's what's proposed in Oregon. That's five percent more than the Council approved in the Sumas project. When you go into your rule making, you may decide that more or less than that is appropriate, but we believe that setting the five percent limit creates an incentive for the program to be administered efficiently, while I think there's some truth to Tim's comment about administrative costs being higher when you're dealing with small amounts of money. That's why Duke proposed the plan be administered through the Climate Trust, so they can combine this money with other money that they're getting from other projects, and they're administering a much bigger program than just the amount of money that's coming from Duke. That's precisely why companies like Duke prefer to fund a program administered by an expert third party rather than to set up these kind of mitigation programs on their own. By pooling that money and taking advantage of the expertise that the Climate Trust has they can implement these programs efficiently at low administrative costs.

Finally, I just want to remind the Council that this is a project that is currently not under construction. Because of conditions in the wholesale power market it is not currently economically viable. I think that casts considerable doubt in comments you've heard earlier from the Counsel for the Environment who dismisses these kind of mitigation costs as, you know, they're not going to make or break the project. Every dollar that gets added onto this project is going to make it harder to start up again. It's a project that I think from the standpoint of anyone who's concerned about greenhouse gas levels this is the kind of project you want built and providing electricity. This is a highly efficient combined cycle project. It's much better for these projects to get built than for the state to continue to rely on coal projects or peaking plants fueled by natural gas oil. This is the kind of project that is good for the state. It's good environmentally. It's good for greenhouse gas emissions, and for every dollar you add onto that, you make it harder to build. For that reason I ask you to accept the plan as it is proposed. Thank you.

CHAIR LUCE: Thank you. Any other comments from members of the public? Well, Council Members, here we are.

MR. CARELLI: Didn't you have a doctor's appointment?

CHAIR LUCE: No.

MR. CARELLI: That's you, Mr. Carelli.

CHAIR LUCE: Any discussion? The issues are pretty clear here. I'm not going to repeat the arguments that I've made. Do you want to do that?

MR. CARELLI: No, I think I'm going to make a motion that we accept the greenhouse gas as submitted with the revision that I suggested; that is, that the administrative costs be increased not to exceed ten percent.

CHAIR LUCE: Okay. Do we have a second to that motion?

MR. FRYHLING: I'll second that.

CHAIR LUCE: All right. Discussion among the Council Members.

MR. IFIE: I think the discussion that we had before was that we should -- I mean the direction I thought we were going was accept the plan or to consider accepting the plan as submitted as opposed to make any modification.

CHAIR LUCE: Right.

MR. IFIE: The reason I'm thinking about that is that because the legislature has not passed any greenhouse gas mitigation or requirements. The federal government has not passed any requirements. We're depending on the Applicants to volunteer, to make a voluntary proposal, and this Applicant has submitted a proposal to us. It seems to me that we shouldn't make it tough for an Applicant that volunteered to make this kind of proposal. I believe that this proposal is a stronger proposal than the Sumas proposal if we accept it. I am leaning towards saying let's consider the proposal as submitted.

CHAIR LUCE: We have a motion on the floor with a second, so I think the first thing -- and I've consulted with legal counsel and discussed with Sue whether she should participate in this, and having not read or heard the different testimonies we had before she's decided not to vote on this issue. Is there a call for the question with respect to Mr. Carelli's amendment?

MR. CARELLI: I'll call for the question.

CHAIR LUCE: Clerk, please read the roll. This is on the motion to accept with Mr. Carelli's amendment.

MR. MILLS: Community Trade and Economic Development.

MR. FRYHLING: Dick Fryhling, aye.

MR. MILLS: Department of Ecology.

MR. CARELLI: Charles Carelli, aye.

MR. MILLS: Department of Natural Resources.

MR. IFIE: Tony Ifie is nay.

MR. MILLS: Chair.

CHAI LUCE: Nay.

MR. MILLS: The vote is two to two.

CHAIR LUCE: Motion fails. Does anyone else care to make a motion?

MR. IFIE: I would to like to make a motion to accept the proposal submitted by Duke.

CHAIR LUCE: I will second that motion.

MR. CARELLI: Discussion?

CHAIR LUCE: Discussion.

MR. CARELLI: I know Mr. Sweeney had some fairly strong feelings. I wonder if it wouldn't be appropriate to consider this at a time when he is present and is able to vote on the matter.

CHAIR LUCE: We had a vote, and I would like to continue to have the vote today. And if we can't resolve it today, then we certainly will have it when Mr. Sweeney is present. So we have a motion and a second. Call for the question.

MR. CARELLI: Question.

CHAIR LUCE: All in favor.

MR. IFIE: Aye.

CHAIR LUCE: I think it's going to fail two to two.

MR. MILLS: Community Trade and Economic Development.

MR. FRYHLING: Dick Fryhling, nay.

MR. MILLS: Department of Ecology.

MR. CARELLI: Mr. Carelli, nay.

MR. MILLS: Department of Natural Resources.

MR. IFIE: Tony Ifie, aye.

MR. MILLS: Chair.

CHAIR LUCE: Aye.

MR. MILLS: The vote is two to two.

CHAIR LUCE: All right. Motion fails. Up to 7-1/2?

MR. CARELLI: The Chair offers kind of a middle of the road solution, and that is a 7-1/2 percent administrative fee as opposed to five and/or ten percent.

CHAIR LUCE: Which the Chair will not offer again.

MR. CARELLI: And I'm just wondering if there's any discussion on the appropriateness of making that kind of a decision at the spur of the moment? If that is offered in the form of a motion, I guess I would support that.

CHAIR LUCE: I would offer that in the form of a motion.

MR. CARELLI: Having said I would support it, I would second that.

CHAIR LUCE: All right. The motion on the table is to adopt the proposal of the Duke Power Company for the greenhouse mitigation with one variation which would be administrative costs at up to but not to exceed 7-1/2 percent. Call for the question.

MR. CARELLI: Question.

CHAIR LUCE: All in favor say aye.

MR. FRYHLING: Aye.

MR. CARELLI: Aye.

MR. IFIE: Is there going to be any discussion?

CHAIR LUCE: Discussion.

MR. IFIE: I still feel very strongly on principle that we should leave the proposal as submitted. It's not an issue of the 2-1/2 percent up or down increase, but I believe that the proposal we've given a lot of input, worked with the Applicant in developing this proposal, and I believe that it will not be a good fit for us at this last moment to come up with modifications. So that would be my comments on the motion before the Council.

CHAIR LUCE: I believe in the same thing, Tony, but I think Arthur Conan Doyle has a story involving Sherlock Holmes called the 7 1/2 percent solution, and it seems to me that compromise is important. Mr. Sweeney who is not able to be with us right now also has strong feelings, and I think that there's also value in certainty. And the company is trying to finish this project as soon as possible, and there's value in the company having certainty with respect to what is going to be required. I think up to 7-1/2 percent, an additional 2-1/2 percent in administrative costs is reasonable. It's not what I would prefer. Sometimes compromise is the art of getting not what you prefer but what is possible, and I think meeting the Council on this issue that is a reasonable middle ground. It's not one that the Chair prefers but one that will put this issue behind us and let the company get forward with hopefully completing this project. So that's the basis for my suggested compromise.

MR. IFIE: May I have another comment?

CHAIR LUCE: Yes.

MR. IFIE: I think the last thing is as discussed earlier this is not rule making. This is discussing the issue with respect to this project, so I hope we don't use this for the business for the rule making discussion. This is one situation. You know, the circumstances are unique, and I hope this doesn't become something that we use.

CHAIR LUCE: I hope not too. I mean the value in rule making is consistency across the board and not on a case -- well, I guess you could make rules on a case-by-case basis, but it's not the

best way to establish a rule. So I agree with you, and hopefully we will bring this rule making process to some furtherance with respect to CO2 in the very near future, and then we can have that discussion which I agree will also be a very principled discussion. And I am sure we'll have lots of comments from the public at that point in time.

MR. FRYHLING: I would like to call for the question with a roll call vote.

CHAIR LUCE: Call for the question has been made.

MR. MILLS: Community Trade and Economic Development.

MR. FRYHLING: Dick Fryhling votes aye.

MR. MILLS: Department of Ecology.

MR. CARELLI: Charles Carelli, aye.

MR. MILLS: Department of Natural Resources.

MR. IFIE: Tony Ifie, aye.

MR. MILLS: Chair.

CHAIR LUCE: Aye.

MR. MILLS: The vote is four to zero.

CHAIR LUCE: Thank you. The matter is resolved, and the next item on the agenda is the Chehalis Generation Facility. Tom Schneider is not here, but I note the presence of the two representatives from this project. Gentleman and Lady, please stay seated, but I overread the agenda, and we do have a report from staff on the status of this Satsop project.

<i>Status Report</i>	<i>Mike Mills, EFSEC</i>
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MR. MILLS: I would just note that Andy McNeil called me this morning and was having back problems and was not able to attend the meeting. He did want to remind the Council that the project is in a deferral mode. They presently have eight people on staff that are doing inventory and maintaining equipment type activities. Staff also had an opportunity to visit the site last week to look at the storm water pond, and I've asked Michelle just to brief the Council on that site visit and how we're planning on proceeding.

MS. ELLING: Yes. At the executive committee as you recall the Council gave direction to staff and also to Duke to look at repairing the C-1 as opposed to building a new storm water pond, and so Mike Mills, myself, Lauri Vigue from Fish and Wildlife, and also Bob Kingsman of the Department of Ecology went out to look at the site and to see what would need to occur to actually repair the pond. They're looking at actually building a new controlled outfall. Right now the pond is not meant to discharge past the face of the dam, and so they're going to actually be coming back to the Council with designed drawings on how to build a controlled outfall and do repairs to the dam. And at that point then Fish and Wildlife and staff will go back out and Ecology will go back out to the site and take one more look.

CHAIR LUCE: Thank you. Questions from the Council? Will we be able to accomplish this within the construction season?

MS. ELLING: That is our intent.

CHAIR LUCE: All right.

MR. MILLS: I would like to thank Chuck Carelli for making available Ecology staff for that site visit. Thank you.

MR. CARELLI: Sure.

ITEM 8: CHEHALIS GENERATION FACILITY

CHAIR LUCE: And now we will move ahead to the Chehalis Generation Facility.

MR. McCAIG: Thank you. Good afternoon. Thank you for the opportunity to provide an update on the construction progress of the Chehalis Power Project. My name is Duncan McCaig. I'm the plant manager. With me today is Kaye Emmons, one of our plant engineers. We have a handout of the construction progress. While Kaye is providing the handout, I will just summarize the start-up and testing activities because that's primarily where we are today. To date we have actually conducted three and we're conducting a fourth test of the facility. Unit No. 1 first fired or first ignition was conducted on May 20. Unit 2 first fired with minor steam blows, meaning steam cleanings were conducted May 31 through June 1, and then last week Thursday and Friday, June 5 and 6, we concluded our first synchronization of Unit 2 along with the complete steam blows; that is, cleaning of the piping associated with the No. 2 Unit. We are providing the Council a summary of the pending testing activities as we see them with approximate dates.

Today we are conducting a green rotor run, basically testing of the Gas Turbine No. 1, and later in the week we will be synchronizing Unit 1 conducting full steam blows or steam cleaning for that unit. Then this weekend or early next week we plan to conduct combined steam blows, that is operating both gas turbines under sufficient load to produce enough steam to clean the piping. Then moving further, we will be restoring the piping back to normal and then in early to mid July we plan on tuning or adjusting the dry low NOx combustors for the gas turbines, and then followed by testing on fuel oil. Then we will begin rolling the steam turbine in late July to early August. That will be followed in mid to late August by plant performance testing and emission testing. We plan to obtain certificates of the continuous emissions monitoring system in mid to late August and conclude our testing in early September with a 7-day reliability test on the unit. Are there any questions regarding the testing? With that, Kaye will give a summary of the present status of construction testing.

MS. EMMONS: Thanks, Duncan. Everyone knows how the weather has been extremely nice. The site is in good shape. We have no storm water problems. Obviously we haven't had the rain, and construction work is ramping down. There were no recordable safety incidents during the month of May, no environmental incidents. Personnel as you can see, is down considerably. I remember a couple months ago it was up to almost 600. We have a total of 256 on site including the permanent staff, the construction contractor, and subcontractors. Engineering procurement is essentially complete as is our operator training, although we do have continuing training that's ongoing. But the major training has been completed along with the structural and concrete work. The major equipment, our combustion turbines obviously are complete. They're just going through their testing phases now. The heat recovery generators have been in service into a company. The combustion turbines they're continuing finishing up insulation and painting those units. We have completed commissioning the fans on the air-cooled condenser, and the steam turbine has been successfully placed on turning gear, and they're continuing to check out their controls and everything in preparation for the run in 1 July. Piping is complete except for when they need to reconfigure the piping after the steam blows. There's some minor work remaining on instrument tubing and electrical terminations for the heat tracing, etc., that is going on as we do our testing. A lot of the painting has been done on the site. The major painting activities are just the HRSG's at this moment.

And as Duncan said we're continuing to work on control lube checks. We are using a control room. You can see in the pictures the control room is functional and they are controlling our equipment in large part from there through the testing period, and we're continuing to finalize and check out the remaining lubes that have not been put in service. And when we ran the Combustion Turbine 2 and synchronized to the grid, we ran at about 25 megawatts on average for 24 hours and that did quite well. And the closed cooling water system has been commissioned and placed in service to support these activities. Our water treatment system is continuously in service supporting the steam blows as well, and as we mentioned earlier the steam turbine has been on turning gear as required and all steam controls check out continue. That's all I have. If there's any other questions.

CHAIR LUCE: Question of Council Members?

MR. CARELLI: Commercial operation starts?

MS. EMMONS: Is that provisional acceptance?

MR. McCAIG: Provisional acceptance, schedule for provisional acceptance.

MS. EMMONS: Is mid to late August following the performance test.

MR. CARELLI: My question was when does commercial operation start or is that.

MS. EMMONS: Well, depends on whose definition.

MR. McCAIG: Typically commercial operation would start shortly after provisional acceptance. That's a corporate decision from Houston.

CHAIR LUCE: Just in time for those big power sales contracts to California. Actually, no, the wrong season, but, you know, maybe it will remain hot during the balance of the late summer, early fall.

MR. McCAIG: That would be nice. Unfortunately we don't have transmission rights to California.

CHAIR LUCE: You can talk to PGE or Bonneville.

MR. MILLS: Jim, I would like Duncan to address one issue.

CHAIR LUCE: Yes.

MR. MILLS: Staff did receive a phone call from a local citizen regarding a noise associated with some of the start-up activities. I had a chance to meet with Duncan and Kaye and Tom Schneider last Friday. I would like them to go over some of the efforts that they're making in responding to that and reducing the noise associated with the testing.

MR. McCAIG: Okay. Thanks Mike. During the testing activities since May 25, we have been contacted by a number of neighbors in the area, and as you can imagine it's because of the noise during testing. This area has been a rural area, although it's zoned commercial/industrial, and the noise levels during construction have been relatively light. We are experiencing start-up testing noises that are higher than they will be during operation, and so this sudden ramp up of noise has resulted in some calls from about six to eight neighbors all together. So Tom and I have made some considerable effort to address this issue with the neighbors. We have either phoned or met with each of the individuals who has contacted us, and we have also attempted, have made contact with five to six other neighbors around the plant. We have also contacted the city manager, city mayor, county commissioners, KELA radio station, and John Mudge of the CIC, and in each of the cases we've explained to the individual that the noise is temporary, the construction noise, the start-up noise, and we are taking measures to further reduce it, and moreover that the noise level is higher than we will have during operation.

The noise comes from a number of areas, vacuum trucks which are needed for the testing to pull a vacuum in the air-cooled condenser, start-up vents which will certainly be used in operation

but will be open for a much shorter period of time, noise from the scouring of the piping by the steam -- that's the steam blows -- also water feed water pumps and various construction vehicles and equipment that are on the site operating while we're doing the testing. We have taken a number of steps to reduce the noise.

First and foremost the contractor is using a method that we feel is excellent in minimizing the noise, and that is instead of the traditional steam blow to the atmosphere which can be very loud, the steam is going into the large air-cooled condenser, and so much of the noise is captured in the air-cooled condenser. But beyond that we've also relocated the vacuum trucks indoors, and that's resulted in a considerable reduction in noise. We worked with the contractors to close the steam vents as soon as possible. We've identified noisy valves, and we have wrapped those and barricaded those. We've also worked with a contractor to minimize the testing during the weekend when people tend to be at home and want to relax, and we have also barricaded some of the noisy construction or noisier construction equipment. So we are continuing to take efforts to reduce the noise, and we also are indicating to the neighbors that this period of steam blow testing is coming to an end. We estimate we have about one more week or a little over a week of that kind of testing, and then we will be off into a set of tests that are more like normal operation.

CHAIR LUCE: Thank you.

MR. McCAIG: Thank you.

ITEM NO. 9: WALLULA POWER PROJECT

<i>Status Report</i>	<i>Scott Noll, Competitive Power Ventures</i>
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CHAIR LUCE: The next item on the agenda is the Wallula Power Project status report.

MR. NOLL: Hello, Mr. Chairman. How are you today?

CHAIR LUCE: I'm fine. Thank you.

MR. NOLL: Council Members, how are you? Staff, it's good to see you again. It's been a while. My name is Scott Noll, and I work with Competitive Power Ventures, the owner of the Wallula Power Project. I'm here to give you just a brief update and answer any questions that you have. There are three things that I want to talk about. One is kind of our brief viewpoint of the status of the power market which is holding up a lot of the projects; Second, a transmission dialogue that we are having with BPA; and Thirdly; specific actions pertaining to our site options and extending those.

With respect to the market, you know, it's not news to you that in general market prices are lower and have been a bit depressed, and given all the problems that came out of California the aggregate demand for electricity has dropped considerably from where it was even two and a half years ago. And in the face of that we have had to change our marketing approach from what it was originally conceived to be, and currently like many others we're talking to the public utilities, as well as the investor-owned utilities.

With respect to the publics, a lot of them right now are not in a commitment or decision making mode. They're currently caught up with this SNCRAC or safety nut cost recovery adjustment cause process where BPA has come back for another percentage increase to rates. And then in addition they're going through this customer choice program or customer choice dialogue which is really a discussion between the publics and BPA about kind of what the future of BPA will be beyond the 2006 contract period. The primary question there is whether or not BPA will have any responsibility long term for providing power longer term to the publics beyond what their

current hydro resources are. In talking to BPA and some of the publics, it's not anticipated that that process will get resolved probably until early fall, and that may be optimistic. I don't know. But until that's determined, the publics really don't know where they stand with respect to how much power they can count on long term from BPA, so they're really waiting until that's ironed out to make resource commitments. So we're really kind of in a waiting game with the publics right now.

With respect to the IOUs, you've probably been reading a lot in the press about the different IOUs, Puget Sound, Portland General, and PacifiCorp looking at issuing requests for proposals. We're right on top of that and along with others in the industry we'll be actively participating both in how those are formulated and hopefully in responding, so we're working on the markets. I don't have anything to report to you, but it's safe to say that in the current environment until we are able to secure contracts we probably will not proceed with the financing of the project and construction.

In terms of the issue of transmission, we're on the east side as you know and related to our project was all of the work done with respect to the identified McNary-John Day transmission line; that that line would be required in order for Wallula to get firm transmission service from the receipt point which is basically our power plant over to where our delivery points were. The Northwest Independent Power Producer Coalition has initiated a discussion with BPA about trying to see whether or not the seasonal product might be available whereby you could forego firm transmission right during the hydro flood conditions. And without building a new line, there might be some capacity for nine months out of the year, and so that might be good news for those people that are in a position to sign up for that product if indeed in the end BPA offers that product. So that's a discussion. It's kind of in the very early stages right now with BPA but will continue on.

And then finally we are just taking care of business with respect to our underlying site options. We have verbal agreement with the Wake property which is the property remember when Benton County they were proposing for the provision the offsets by converting that from this current fellow crop dry land rotation to a full time dry land grass environment. We've also had verbal discussions with the winds with respect to the Jayso property which is the 90 acres right south of our project, and they're also willing to work with us on an extension there. And then finally we're in discussions with the Port of Walla Walla about reconfiguring that agreement and extending it also. So those are all active, and all of them should be completed within the next thirty to sixty days.

CHAIR LUCE: Thank you, Scott.

MR. NOLL: You're welcome. Any other questions?

CHAIR LUCE: Questions from Council Members? Hearing no questions, questions from the public? Hearing no questions, Thanks, Scott.

MR. NOLL: You're welcome.

ITEM NO. 10: ENERGY NORTHWEST PROJECTS

Columbia Generating Station

<i>Operations</i>	<i>Mike Mills, EFSEC</i>
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CHAIR LUCE: John's not here.

MR. MILLS: Staff will make a brief report on the plant status for the Columbia Generating Station. I believe there's a handout. John notes that today is the 32nd day of the planned 34-day maintenance and refueling outage. To our knowledge the outage has gone well for the plant, and they will be restarting at the end of this week. I believe usually there's a three- to four-day period that it takes to do the start-up, and so I would expect by next week that they would be back at full power.

John also provided information on the condenser scale removal project, and I've asked Michelle to just review the status of that project, and then she has some additional information based upon how we are going to proceed with that project. So, Michelle, could you go ahead.

MS. ELLING: Just to bring the Council back up to speed here, the Council issued Resolution 306 authorizing the use at their request for condenser scale removal at the Columbia Generating Station, and that was approved subject to some conditions. The company did that cleaning in late April, early May and did set up the piping that went over to WNP-1 and 4. They ended up with approximately 13 million gallons in the WNP-4 pond and 6.2 million gallons in the WNP-1 pond.

Once they got done with that condenser scale cleaning and they felt it was successful, they removed the piping to those ponds, and they tested the water and discovered that in WNP-4 the copper level was 0.31 milligrams per liter which is in excess of their NPDES permit for discharge into surface water, and in WNP-1, it was 0.4 milligrams per liter. So according to the resolution at this point, they were to develop a plan for ultimately discharging that water that's temporarily being stored in these ponds. We expect that plan to be submitted this week to both the EFSEC staff, to Fish and Wildlife, and also to our Ecology contractor, Jeff Farris, out at the Kennewick office. We are going to review that plan and go out on site on June 24 when they're going to propose how they're going to ultimately discharge that water. Staff expects, if necessary, if we need to amend this resolution that will come before the Council at the next regular Council meeting on July 14.

CHAIR LUCE: Great. Thank you very much. Anything else?

MS. ELLING: No.

<i>Site Restoration</i>	<i>Mike Mills, EFSEC</i>
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CHAIR LUCE: Mike, do you have something on WNP-1 and 4? The saga continues.

MR. MILLS: I'm always optimistic that we'll have something new to say, but unfortunately we don't.

CHAIR LUCE: The saga continues.

MR. MILLS: So we're still waiting for discussions between the Governor's office and the U.S. Department of Energy regarding possible meeting and signing what's referred to as the four-party agreement.

CHAIR LUCE: All right. Well, thank you very much.

ITEM 11: EFSEC RULES

<i>Topic Discussions</i>	<i>Tony Ifie, Natural Resources</i>
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CHAIR LUCE: EFSEC rules topic discussion. Tony.

MR. IFIE: Yes. From executive council meeting we approved three, four rules to be put on the web site, and those rules that have been approved and put on the web site are Foundation Rule,

Water Quality Rule, Air Quality Rule, and Council Member Salaries Rule. So I'm assuming those will be put on the web site effective tomorrow. Any discussion? Any questions?

CHAIR LUCE: Do I hear a motion in favor of putting those on the Council web site?

MR. CARELLI: So moved.

MR. FRYHLING: Second.

CHAIR LUCE: All in favor say aye.

COUNCIL MEMBERS: Aye.

CHAIR LUCE: So, Irina, are you the keeper of the web site? Michelle is keeper of the web site. That would be appropriate. Which other rules do we have yet to take action on? We have a number of them, but we have need for power. We have CO2.

MR. IFIE: NPDES. We are getting to where we need to do a comprehensive review of the entire WAC revision.

CHAIR LUCE: I think we are looking at something with respect to SEPA and how we structure the application that is brought before the Council.

MR. IFIE: Correct.

CHAIR LUCE: So I guess I just give everybody here a heads up with respect to CO2 and need for power. My best guess is, and it's only a guess, is that we will be bringing that forward to the Council for its discussion sometime in the middle of July. And if the legislature would leave town earlier, that might be possible to bring it earlier. But quite frankly we are having discussions as you might guess within the administration on these issues. Just to give them a heads up on what we are thinking about, they're very preoccupied right now with a number of legislature issues that are carryovers from special session. So that would be my expectation. So heads up. Anything else for the good of the order?

ITEM 12: OTHER

MR. MILLS: I have one item.

MS. MAKAROW: And I have two items.

CHAIR LUCE: Let's start with the right.

MS. MAKAROW: In your packets I included a copy of the most recent Compliance Assurance Agreement for air programs and for the benefit of the new members who have not seen this document before, this is an agreement that EFSEC has entered into along with EPA Region 10, Ecology, the local air pollution control agencies, and the Department of Health, although they are not listed on the front cover. And the purpose of this agreement is to lay out rules and responsibilities of the various agencies in administering the Clean Air Act in Washington State and especially as it applies to violations and how violations are found through inspection, the inspection processes and how they are dealt with. EFSEC staff has been participating in the revision of this Compliance Assurance Agreement to make it clearer to all the parties as to who does what, and the document you have before you is the final version that's being agreed upon, and it has already been signed by the EPA, Ecology, possibly by the Pollution Control Agency, and it will be coming to our Chair, Jim Luce, for signature shortly. So I just wanted to let you know we have been working on this.

The second item is with regards to the Sumas Energy 2 request for proposals. There is a monthly update that was included in your packets; however, late last week the certificate holder did contact staff and requested if they could extend the period for receipt of proposals for an

additional two weeks. That period was to end last Friday. They knew that there were a number of projects out there that were actually quite interested in submitting proposals, and EFSEC staff communicated with Chair Luce, and we granted their extension. So they will be receiving proposals for the next two weeks, and then later in August they will be submitting a plan to EFSEC with regards to how they propose to mitigate NOx and PM10 emissions in the Fraser Valley air shed.

CHAIR LUCE: Mike.

MR. MILLS: Finally, we were contacted by an attorney for Weyerhaeuser indicating that they're going to request that the Cowlitz Cogeneration Site Certification be terminated. A lot of people in this room probably don't remember that project, but that's a certified project. It had a ten-year certification period, and that period would end in 2004, and the project has not been pursued in any way. And they contacted Allen this morning and indicated they would work with staff to review the termination procedures, and we expect that they will submit a formal request.

ITEM 13: ADJOURN

CHAIR LUCE: Thank you. Anything else from Council Members? Anything else from staff? Anything else from the public? The meeting stands adjourned.

(Whereupon, the Council Meeting was adjourned at 3:24 p.m.)